

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 08-0332.01 Christy Chase

**SENATE BILL 08-011**

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**SENATE SPONSORSHIP**

**Morse,** and Boyd

**HOUSE SPONSORSHIP**

**Massey,** and Green

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**Senate Committees**

Health and Human Services  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING FUNDING FOR THE PROVISION OF UNCOMPENSATED**  
102 **TRAUMA CARE TO PERSONS INJURED IN MOTOR VEHICLE**  
103 **ACCIDENTS IN COLORADO, AND MAKING AN APPROPRIATION**  
104 **THEREFOR.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Health Care Task Force.** Establishes the emergency responders and trauma care reimbursement program in the department of public health and environment (department) to reimburse emergency and trauma care providers for uncompensated care provided to patients injured in a motor vehicle accident. Allows reimbursements for uncompensated

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
April 29, 2008

SENATE  
Amended 2nd Reading  
April 28, 2008

trauma care to licensed ambulances, licensed air ambulances, trauma physicians, and trauma centers that satisfy specified criteria, and prioritizes reimbursement payments first to the ambulances, second to the trauma physicians, third to level III, IV, and V trauma centers located in rural areas, and fourth to all other trauma centers.

Requires the executive director of the department to identify an entity to administer the program (program administrator). Outlines the duties of the program administrator, including:

- ! Starting the program by July 1, 2009;
- ! Reimbursing providers for uncompensated trauma care in a timely and efficient manner;
- ! Managing the administrative costs of the program;
- ! Seeking payment from other responsible parties to reimburse the emergency responders and trauma care reimbursement fund (program fund);
- ! Establishing criteria and qualifications that an applicant must meet to obtain reimbursement from the program fund, including a requirement that the applicant attempt to collect payment for trauma care from the trauma patient or other responsible party;
- ! Determining the types and amount of costs of uncompensated care for which reimbursement will be allowed and the maximum dollar amount of allowable reimbursement.

Establishes the program fund in the state treasury, consisting of moneys credited to the program fund from a \$16 fee on motor vehicle registrations and moneys recovered from responsible parties for the payment of trauma care that was reimbursed by the program fund. Caps the amount of moneys in the program fund that may be used to administer the program and requires the remainder of the program fund to be used to reimburse trauma care providers for uncompensated trauma care.

Requires the program administrator to submit an annual report to the health and human services committees of the senate and house of representatives and details the information to be included in the report.

Mandates all automobile insurance policies issued, delivered, or renewed in the state to contain emergency medical care coverage with benefits of at least \$15,000.

Increases the fee for registering a motor vehicle, other than a fleet vehicle, by \$16 and directs that the moneys from the increased fee be transferred to the program fund.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. 10-4-635, Colorado Revised Statutes, is amended**

1 to read:

2 **10-4-635. Medical payments coverage - disclosure - definitions.**

3 (1) (a) If an insurer makes available medical payments coverage in  
4 conjunction with the coverage required pursuant to section 10-4-620, such  
5 medical payments coverage shall provide for benefits of five thousand  
6 dollars, as well as any other benefit deemed appropriate by the insurer.  
7 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (1), NO  
8 AUTOMOBILE LIABILITY OR MOTOR VEHICLE LIABILITY POLICY INSURING  
9 AGAINST LOSS RESULTING FROM LIABILITY IMPOSED BY LAW FOR BODILY  
10 INJURY OR DEATH SUFFERED BY ANY PERSON ARISING OUT OF THE  
11 OWNERSHIP, MAINTENANCE, OR USE OF A MOTOR VEHICLE SHALL BE  
12 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE UNLESS COVERAGE IS  
13 PROVIDED IN THE POLICY OR IN A SUPPLEMENTAL POLICY FOR MEDICAL  
14 PAYMENTS WITH BENEFITS OF FIVE THOUSAND DOLLARS FOR BODILY  
15 INJURY, SICKNESS, OR DISEASE RESULTING FROM THE OWNERSHIP,  
16 MAINTENANCE, OR USE OF THE MOTOR VEHICLE.

17 (b) A POLICY MAY BE ISSUED WITHOUT MEDICAL PAYMENTS  
18 COVERAGE ONLY IF THE NAMED INSURED REJECTS MEDICAL PAYMENTS  
19 COVERAGE IN WRITING OR IN THE SAME MEDIUM IN WHICH THE  
20 APPLICATION FOR THE POLICY WAS TAKEN. THE INSURER SHALL MAINTAIN  
21 PROOF THAT A NAMED INSURED REJECTED MEDICAL PAYMENTS COVERAGE  
22 FOR AT LEAST THREE YEARS AFTER THE DATE OF THE REJECTION, AND  
23 SUCH PROOF OF REJECTION SHALL BE PRESUMED VALID FOR ALL INSUREDS  
24 UNDER THE POLICY, INCLUDING RESIDENT RELATIVES OF THE NAMED  
25 INSURED AND PERMISSIVE USERS OF THE MOTOR VEHICLE. AN AGENT OR  
26 INSURER THAT OBTAINS A REJECTION OF MEDICAL PAYMENTS COVERAGE  
27 FROM THE NAMED INSURED OR APPLICANT PURSUANT TO THIS SECTION

1 SHALL NOT BE LIABLE TO THE INSURED OR ANY OTHER PERSON SEEKING  
2 BENEFITS UNDER THE NAMED INSURED'S POLICY FOR CLAIMS ARISING OUT  
3 OF OR RELATING TO THE REJECTION OF MEDICAL PAYMENTS COVERAGE.

4 (c) IF THE INSURER FAILS TO OFFER MEDICAL PAYMENTS COVERAGE  
5 OR FAILS TO MAINTAIN OR PROVIDE PROOF THAT THE NAMED INSURED  
6 REJECTED MEDICAL PAYMENTS COVERAGE IN THE MANNER REQUIRED BY  
7 THIS SECTION, THE INSURED'S POLICY SHALL BE PRESUMED TO INCLUDE  
8 MEDICAL PAYMENTS COVERAGE WITH BENEFITS OF FIVE THOUSAND  
9 DOLLARS.

10 (d) IF AN INSURED SELECTS LIMITS FOR MEDICAL PAYMENTS  
11 COVERAGE OR EXERCISES THE OPTION NOT TO PURCHASE THE COVERAGES  
12 DESCRIBED IN THIS SECTION, AN INSURER OR AFFILIATED INSURER SHALL  
13 NOT BE REQUIRED TO NOTIFY ANY POLICYHOLDER IN ANY RENEWAL OR  
14 REPLACEMENT POLICY OF THE AVAILABILITY OF MEDICAL PAYMENTS  
15 COVERAGE. HOWEVER, THE INSURED MAY MAKE A WRITTEN REQUEST FOR  
16 ADDITIONAL COVERAGE OR COVERAGE MORE EXTENSIVE THAN THAT  
17 PROVIDED ON A PRIOR POLICY.

18 (e) Nothing in this section shall be construed to limit any other  
19 coverage amounts being made available by an insurer.

20 (2) (a) ~~Repeated.~~ IF A POLICY CONTAINS MEDICAL PAYMENTS  
21 COVERAGE, BENEFITS SHALL BE PAID IN ACCORDANCE WITH THE  
22 CONDITIONS OF THE POLICY TO PERSONS PROVIDING MEDICALLY  
23 NECESSARY AND ACCIDENT-RELATED MEDICAL CARE. EXCEPT AS  
24 PROVIDED IN PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (2),  
25 PAYMENTS OF CLAIMS FOR MEDICAL PAYMENTS COVERAGE SHALL BE  
26 MADE IN ACCORDANCE WITH SECTION 10-4-642. \_\_\_

27 (b) UPON RECEIVING NOTICE, EITHER FROM A HEALTH CARE

1 PROVIDER OR THE INSURED, OF AN ACCIDENT FOR WHICH THE MEDICAL  
2 PAYMENTS COVERAGE SPECIFIED IN THIS SECTION OR MEDICAL PAYMENTS  
3 COVERAGE IN A GREATER AMOUNT MAY APPLY, THE INSURER SHALL  
4 RESERVE THREE THOUSAND DOLLARS OF THE MEDICAL PAYMENTS  
5 COVERAGE FOR THE PAYMENT OF TRAUMA CARE PROVIDED BY A LICENSED  
6 AIR AMBULANCE, LICENSED AMBULANCE, TRAUMA PHYSICIAN, OR TRAUMA  
7 CENTER. THE RESERVE SHALL BE HELD AND USED TO PAY CLAIMS FOR  
8 SUCH PROVIDERS FOR NO MORE THAN THIRTY DAYS AFTER RECEIPT OF THE  
9 ACCIDENT NOTICE. AFTER THE THIRTY-DAY PERIOD, ANY AMOUNT OF THE  
10 RESERVE FOR WHICH THE INSURER HAS NOT RECEIVED A CLAIM FOR  
11 REIMBURSEMENT FROM A TRAUMA CARE PROVIDER DESCRIBED IN THIS  
12 SUBSECTION (2) MAY BE USED TO PAY ANY OTHER CLAIMS FOR  
13 REIMBURSEMENT SUBMITTED BY OTHER PROVIDERS.

14 (c) THE PERIODS SPECIFIED IN SECTION 10-16-642 FOR THE PROMPT  
15 PAYMENT OF MEDICAL PAYMENTS COVERAGE BENEFITS SHALL BE TOLLED  
16 FOR THE PERIOD THAT AN INSURER IS REQUIRED UNDER THIS SUBSECTION  
17 (2) TO HOLD PAYMENT OF A CLAIM FROM A PROVIDER THAT DID NOT  
18 PROVIDE TRAUMA CARE, BUT ONLY TO THE EXTENT THE MEDICAL  
19 PAYMENTS COVERAGE BENEFITS NOT HELD IN RESERVE ARE INSUFFICIENT  
20 TO PAY THE CLAIM.

21 (3) (a) AN INSURER PROVIDING BENEFITS UNDER MEDICAL  
22 PAYMENTS COVERAGE IN THE AMOUNT SPECIFIED IN THIS SECTION OR IN A  
23 GREATER AMOUNT THAN THE AMOUNT SPECIFIED IN THIS SECTION SHALL  
24 NOT HAVE A RIGHT TO RECOVER AGAINST AN OWNER, USER, OR OPERATOR  
25 OF A MOTOR VEHICLE, OR AGAINST ANY PERSON OR ORGANIZATION  
26 LEGALLY RESPONSIBLE FOR THE ACTS OR OMISSIONS OF SUCH PERSON, IN  
27 ANY ACTION FOR DAMAGES FOR BENEFITS PAID UNDER SUCH MEDICAL

1 PAYMENTS COVERAGE. AN INSURER SHALL NOT HAVE A DIRECT CAUSE OF  
2 ACTION AGAINST AN ALLEGED TORTFEASOR FOR BENEFITS PAID UNDER  
3 MEDICAL PAYMENTS COVERAGE.

4 (b) NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO:

5 (I) MODIFY THE REQUIREMENTS OF SECTION 13-21-111.6, C.R.S.,  
6 OR ANY REQUIREMENTS UNDER THE "WORKERS' COMPENSATION ACT OF  
7 COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S.;

8 (II) PREVENT A PERSON TO WHOM BENEFITS ARE PAID UNDER  
9 MEDICAL PAYMENTS COVERAGE FROM OBTAINING RECOVERY OF BENEFITS  
10 AVAILABLE UNDER UNINSURED MOTORIST COVERAGE PURSUANT TO  
11 SECTION 10-4-609; OR

12 (III) AFFORD AN INSURER A CAUSE OF ACTION AGAINST A PERSON  
13 TO WHOM OR FOR WHOM THE MEDICAL PAYMENTS COVERAGE BENEFITS  
14 SPECIFIED IN THIS SECTION WERE PAID EXCEPT IN A CASE WHERE THE  
15 BENEFITS WERE PAID BY REASON OF FRAUD.

16 (4) THIS SECTION SHALL NOT APPLY TO:

17 (a) A PERSON OBTAINING AN AUTOMOBILE LIABILITY OR MOTOR  
18 VEHICLE POLICY INSURING AGAINST LOSS RESULTING FROM THE  
19 OWNERSHIP, MAINTENANCE, OR USE OF A MOTORCYCLE, MOTORSCOOTER,  
20 MOTORBICYCLE, MOTORIZED BICYCLE, OR TOY VEHICLE, AS DEFINED IN  
21 SECTION 42-1-102, C.R.S., A SNOWMOBILE, AS DEFINED IN SECTION  
22 33-14-101, C.R.S., OR ANY VEHICLE DESIGNED PRIMARILY FOR USE OFF  
23 THE ROAD OR ON RAILS.

24 (b) A PERSON THAT HAS OBTAINED A CERTIFICATE OF  
25 SELF-INSURANCE FROM THE COMMISSIONER PURSUANT TO SECTION  
26 10-4-624.

27 (5) AS USED IN THIS SECTION:

1           (a) "INJURED PERSON" MEANS THE INSURED, OR A PASSENGER WHO  
2 IS AUTHORIZED BY THE INSURED TO OCCUPY THE INSURED'S MOTOR  
3 VEHICLE, WHO SUSTAINS BODILY INJURY ARISING OUT OF THE USE OF THE  
4 INSURED'S MOTOR VEHICLE.

5           (b) "LICENSED AIR AMBULANCE" MEANS AN AIR AMBULANCE, AS  
6 DEFINED IN SECTION 25-3.5-103 (1), C.R.S., THAT IS LICENSED BY THE  
7 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO  
8 SECTION 25-3.5-307, C.R.S.

9           (c) "LICENSED AMBULANCE" MEANS AN AMBULANCE, AS DEFINED  
10 IN SECTION 25-3.5-103 (1.5), C.R.S., THAT IS LICENSED PURSUANT TO  
11 SECTION 25-3.5-301, C.R.S.

12           (d) "LICENSED HEALTH CARE PROVIDER" SHALL HAVE THE SAME  
13 MEANING AS SET FORTH IN SECTION 10-4-902.

14           (e) "MEDICAL CARE" MEANS ALL MEDICALLY NECESSARY AND  
15 ACCIDENT-RELATED HEALTH CARE AND REHABILITATION SERVICES  
16 PROVIDED TO A PERSON INJURED IN AN AUTOMOBILE ACCIDENT FOR WHICH  
17 BENEFITS UNDER THE TERMS OF THE MEDICAL PAYMENTS COVERAGE IN  
18 THE POLICY ARE PAYABLE.

19           (f) "STABILIZE" MEANS, WITH RESPECT TO A MEDICAL CONDITION  
20 RESULTING FROM A TRAUMA, TO PROVIDE SUCH MEDICAL TREATMENT OF  
21 THE CONDITION AS MAY BE NECESSARY TO ASSURE, WITHIN REASONABLE  
22 MEDICAL PROBABILITY, THAT NO MATERIAL DETERIORATION OF THE  
23 CONDITION IS LIKELY TO RESULT OR OCCUR DURING THE TRANSFER OF THE  
24 INDIVIDUAL TO OR FROM A TRAUMA CENTER.

25           (g) "TRAUMA" MEANS AN INJURY OR WOUND TO A LIVING PERSON  
26 CAUSED BY THE APPLICATION OF AN EXTERNAL PHYSICAL FORCE. TRAUMA  
27 INCLUDES ANY EVENT THAT THREATENS LIFE, LIMB, OR THE WELL-BEING

1 OF AN INDIVIDUAL IN SUCH A MANNER THAT A PRUDENT LAY PERSON  
2 WOULD BELIEVE THAT IMMEDIATE MEDICAL CARE IS NEEDED.

3 (h) "TRAUMA CARE" MEANS CARE PROVIDED BY A LICENSED  
4 AMBULANCE OR AIR AMBULANCE, TRAUMA PHYSICIAN, OR TRAUMA  
5 CENTER TO A PERSON INJURED IN A MOTOR VEHICLE ACCIDENT FROM THE  
6 TIME THE ADMINISTRATION OF CARE BEGINS TO THE TIME THE PATIENT IS  
7 FULLY STABILIZED OR THROUGH THE FIRST EPISODE OF CARE, NOT TO  
8 EXCEED SEVENTY-TWO HOURS AFTER THE ADMINISTRATION OF CARE  
9 BEGINS. THE TERM INCLUDES A TRAUMA CARE SYSTEM, TRAUMA  
10 TRANSPORT PROTOCOLS, AND TRIAGE, AS DEFINED IN SECTION 25-3.5-703,  
11 C.R.S.

12 (i) "TRAUMA CENTER" MEANS THE EMERGENCY DEPARTMENT IN  
13 A LICENSED OR CERTIFIED HOSPITAL OR A HEALTH CARE FACILITY THAT IS  
14 DESIGNATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
15 AS A LEVEL I, II, III, IV, OR V FACILITY OR AS A REGIONAL PEDIATRIC  
16 TRAUMA CENTER.

17 (j) "TRAUMA PHYSICIAN" MEANS A TRAUMA SURGEON,  
18 ORTHOPEDIC SURGEON, NEUROSURGEON, INTENSIVE CARE UNIT PHYSICIAN,  
19 ANESTHESIOLOGIST, OR PHYSICIAN WHO PROVIDES CARE IN A TRAUMA  
20 CENTER TO A TRAUMA PATIENT INJURED IN A MOTOR VEHICLE ACCIDENT.

21 **SECTION 2. Appropriation.** In addition to any other  
22 appropriation, there is hereby appropriated, out of any moneys in the  
23 division of insurance cash fund created in section 10-1-103 (3), Colorado  
24 Revised Statutes, not otherwise appropriated, to the department of  
25 regulatory agencies, for allocation to the division of insurance, for the  
26 fiscal year beginning July 1, 2008, the sum of ten thousand eight hundred  
27 forty-eight dollars (\$10,848) and 0.2 FTE, or so much thereof as may be

1 necessary, for the implementation of this act.

2 **SECTION 3. Effective date - applicability.** (1) This act shall  
3 take effect January 1, 2009.

4 (2) However, if a referendum petition is filed against this act or  
5 an item, section, or part of this act during the 90-day period after final  
6 adjournment of the general assembly that is allowed for submitting a  
7 referendum petition pursuant to article V, section 1 (3) of the state  
8 constitution, then the act, item, section, or part, shall not take effect unless  
9 approved by the people at a biennial regular general election and shall  
10 take effect on the date specified in subsection (1) or on the date of the  
11 official declaration of the vote thereon by proclamation of the governor,  
12 whichever is later.

13 (3) The provisions of this act shall apply to automobile insurance  
14 policies issued, delivered, or renewed on or after the applicable effective  
15 date of this act.